

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
5-04-15
04:59 PM

Application of Pacific Gas and Electric
Company (U39E) for Commission
Approval Under Public Utilities Code
Section 851 to Sell the Merced Falls
Hydroelectric Project to Merced
Irrigation District

(U 39 E)

Application 15-04-003
(Filed April 1, 2015)

PROTEST BY THE OFFICE OF RATEPAYER ADVOCATES

I. INTRODUCTION

In accordance with Rule 2.6, subdivision (a) ¹ the Office of Ratepayer Advocates (ORA) protests the Amended Application of Pacific Gas and Electric Company (U 39 E) (PG&E) as captioned above. While A.15-04-003 was filed on April 1, 2015, notice of its filing first appeared in the Commission Daily Calendar on April 7, 2015. This Protest is timely filed and served within thirty days after that date, or by May 7, 2015.

II. BACKGROUND

PG&E currently owns the Merced Falls Hydroelectric Project (Project). The Merced Irrigation District (MID) operates it on behalf and at the direction of PG&E. Under Public Utilities Code §§ 377 and 851, PG&E seeks Commission approval to sell its Project to MID, which is an irrigation district providing water for agricultural purposes and local flood control.²

¹ The term "Commission" means the California Public Utilities Commission; the term "Application," A.15-04-003; and the term "Rule," a provision of the Commission Rules of Practice and Procedure (2014), available at http://docs.cpuc.ca.gov/WORD_PDF/AGENDA_DECISION/143256.PDF

² MID was formed in 1919 under California Irrigation District Law (Cal. Water Code, §§ 20500 et seq.). It is also a local, publicly owned utility which provides non-exclusive electric service to retail customers
(continued on next page)

PG&E and MID have agreed to a sale price of \$850,000 for the Project. The total historical cost of the Project is approximately \$8.51 million. The pre-tax loss-on-sale is estimated as \$5.54 million and the after-tax loss-on-sale as \$3.17 million.

PG&E proposes to recover the total \$5.54 million loss from ratepayers, as follows:

PG&E proposes to recover, after allocating the proceeds as noted below, the total historical cost, including CWIP, less depreciation, from customers through the creation of a regulatory asset and also retire the remaining depreciable and non-depreciable assets from rate base.³

Among other issues as stated *infra*, ORA protests PG&E's requests to burden ratepayers with the entire \$5.54 million loss-on-sale as unreasonable, inconsistent with the law, and against the public interest. Approximately \$2.85 million of the loss is associated with ongoing FERC relicensing of the Project.⁴

III. BACKGROUND

A. Project's Location.

Located on the Merced River at the border of Merced and Mariposa Counties, California, the Project is remote from other PG&E hydropower facilities but immediately downstream from MID's Merced River Hydroelectric Project (FERC Project No. 2179) and approximately three river-miles upstream from MID's Crocker- Huffman Diversion Dam.

B. The Sale.

The proposed sale would generally include the following components⁵:

- The 3.5 MW powerhouse⁶;

(continued from previous page)

in Eastern Merced County *See* PG&E Appl. at 2.

³ PG&E Appl. at 6.

⁴ *Id.* at 4–5.

⁵ For a complete description of the sale assets, *see* PG&E Appl., Attach. B, Purchase and Sale Agreement.

⁶ The average annual energy produced from the Project, calculated from 25 years of historic generation records, is approximately 14.4 GWh per year. *Id.* at 1–2.

- The concrete dam;⁷
- Impoundment;⁸
- Other assets.⁹

Assets excluded from the sale include a local electric substation, transmission and distribution equipment that will remain owned and operated by PG&E. A list of equipment not included in the sale is also included in the Agreement.¹⁰

IV. ISSUES TO BE CONSIDERED

- Whether the proposed sale price of \$850,000 is reasonable and in the public interest, when the historical cost of the Project was approximately \$8.51 million;
- Whether it is reasonable and in the public interest that PG&E's ratepayers should bear all of the \$5.54 million loss from the sale of the Project;
- Whether it is reasonable and in the public interest that PG&E's ratepayers should bear the approximately \$2.85 million of the loss that is associated with ongoing FERC relicensing of the Project; and
- Whether PG&E's other ratemaking proposals for the Project sale are reasonable and in the public interest, such as using an Advice Letter filing to determine the final amount of loss after the sale's closing, when the losses are estimated to run into millions of dollars and the ratepayers would have less of an opportunity to be heard in an advice letter filing than in a hearing.

ORA reserves the right to amend or supplement the issues stated above before the evidentiary hearing is held.

⁷ The Project includes a 575-foot long by 34-foot high concrete gravity dam containing 3 radial gates. Additional dam facilities include a 1,000-foot long earthen levee, and an adjacent intake structure with a debris rack. *Id.*

⁸ An approximately one-mile long by 500-foot wide impoundment on the Merced River that has approximately 900-acre-feet of storage capacity. The total surface area of the impoundment is approximately 65 acres. *Id.* at 3.

⁹ Additional Project-related assets include approximately 20.5 acres of land, the FERC Project license, easements and water rights. *Id.*

¹⁰ *Id.*

V. ORA REQUESTS A PREHEARING CONFERENCE

In accordance with Rule 7.2, subdivision (a) ORA requests that the Commission schedule a prehearing conference (PHC) at its earliest convenience.

VI. CATEGORIZATION, NEED FOR HEARING, AND ORA'S PROPOSED SCHEDULE

ORA concurs with categorizing this proceeding as "ratesetting." ORA requests an evidentiary hearing, at which it would present testimonies and other evidence of fact and law regarding the issues stated above. At this time, ORA proposes to serve written direct testimony in the latter part of August 2015. As soon as practical, it will begin propounding data requests. At the PHC, ORA will propose a schedule.

VII. CONCLUSION

ORA will participate fully in this proceeding. ORA opposes PG&E's request to allocate the entire loss of \$5.54 million to ratepayers. ORA will propose an alternative allocation of any loss associated with the sale and at the hearing produce supporting evidence. After the filing of this Protest, ORA will meet and confer with PG&E to discuss the schedule for this proceeding.

Respectfully submitted,

/s/ CLEVELAND W. LEE

Cleveland W. Lee

Attorney for the Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1792
E-mail: cleveland.lee@cpuc.ca.gov

May 4, 2015